

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE SUBOXONE)	Case No. 1:24-md-3092
(BUPRENORPHINE/NALOXONE))	
FILM PRODUCTS LIABILITY)	MDL No. 3092
LITIGATION)	
)	Judge J. Philip Calabrese
This Document Applies to All Cases)	
)	

MINUTES AND ORDER

On April 16, 2024, the Court held an in-person status conference on the record.

The following attended on behalf of Plaintiffs: Ashlie Case Sletvold, Trent Miracle, Tim Becker, Erin Copeland, and Alyson Steele Beridon.

The following attended on behalf of Defendants Indivior, Inc., Indivior Solutions, Inc., Indivior PLC, Acquestive Therapeutics, Inc., Reckitt Benckiser LLC, and Reckitt Benckiser Health Care (UK) Ltd.: Randall Christian, Mary R. Pawelek, Denise A. Dickerson, Paige Cheung, and Katherine Bell-Moss.

The following attended remotely: Juan M. Garibay, Sara Schramm, Michelle Rodriguez, Laura Smith, Sara Watkins, Michelle Rossi, Stan Gipe, Davis Cooper, Joe Masterman, Joyce Chambers Reichard, Jessica Wieczorkiewicz, Sara Papantonio, Jennifer Duffy, Christiaan van Lierop, Alex Gelb, Daniel Goldman, Elan Daniels, Tarun Koshy, and Victor Alves.

Based on the parties' joint submission (ECF No. 59) and the Court's review of the record, the following agenda items were discussed.

1. Protective Order and Rule 502(d) Order

Counsel continues to negotiate both orders and informed the Court of several issues that remain under discussion, including the number of tiers in the protective order, dispute resolution procedures, and issues associated with presenting any dispute over the inadvertent production of information subject to a claim of privilege. Counsel intends to continue working toward resolution of those issues.

The Court set a deadline of May 7, 2024 to submit proposed orders to the Court. If no agreement is reached by then, counsel should submit a single document with competing provisions highlighted. If the competing proposals require explanation, the parties may provide a short statement—no more than one paragraph in length—supporting their positions.

2. Phased Discovery

The parties disagree about proceeding with phased or sequenced discovery. Defendants submitted a proposal for discovery limited to general causation (ECF No. 61) before proceeding to other general or case-specific matters. Plaintiffs oppose the proposal. Accordingly, the Court set the following briefing schedule: Defendants may file a short supplemental brief if they so choose, by April 23, 2024. Plaintiffs' opposition is due May 24, 2024; Defendants' reply is due May 31, 2024. Oral argument will occur at the next in-person status conference on June 6, 2024.

3. Bellwether Selections

Counsel discussed the bellwether protocol process as outlined in the parties' agenda. Counsel for Plaintiffs expressed an interest in implementing a protocol and selecting bellwether cases as early as practicable. The Court noted that a protocol is

premature at this time and that any bellwether process will need to ensure selection of meaningful and representative cases for discovery, work-up, motion practice, and trial. Accordingly, the Court will need sufficient information about the cases in the MDL to make such determinations at the appropriate time.

4. Tolling

Noting the upcoming two-year anniversary of the label change in June 2024, Plaintiffs proposed a tolling agreement that would allow clients retained before that date to file a complaint without triggering a limitations defense. The parties do not agree on this issue but will continue to negotiate. The Court will address the issue again at the interim status conference on May 7, 2024.

5. Rule 12 Motions

Defendants remain of the view that Reckitt Benckiser LLC, Reckitt Benckiser Healthcare (UK) Ltd., and Indivior PLC are not subject to personal jurisdiction and assert that the issue is ripe. Plaintiffs seek additional discovery before briefing this issue. The parties discussed the informal discovery that has taken place and noted a possible breakdown in that process. After further dialogue, if this issue requires motion practice, the Court directs the parties to propose a briefing schedule by May 7, 2024.

Defendants also expressed concern that under Rule 12(g), bringing a Rule 12(b)(2) motion will waive later motions under Rule 12. The Court confirmed that excluding case-specific motions and motions directed at State-law issues should not be brought at this time, without waiving the ability to raise them later. However,

generally available Rule 12 motions, such as any argument regarding federal preemption, for example, should be brought consistent with Rule 12(g).

6. Other

The Court also inquired about any direct filing issues to date and directed the parties to confer about deficiencies as they arise, noting that further procedures for elevating any issues can be discussed as needed.

7. Next Status Conferences

The Court sets an interim status conference with lead counsel for May 14, 2024 at 3:00 p.m. by Zoom. The Court **ORDERS** the parties to submit the following items by May 7, 2024: (1) a proposed protective order and Rule 502(d) order or a document containing the competing language, as described above; (2) a proposed briefing schedule on tolling issues, if the parties do not have a proposed resolution of their own; and (3) an update or proposed briefing schedule for Defendants' Rule 12(b)(2) motion and any other generally applicable Rule 12 motions, as described above.

Further, the Court sets a status conference for June 6, 2024 at 10:00 a.m. in Chambers 16B, Carl B. Stokes U.S. Courthouse, 801 West Superior Avenue, Cleveland, Ohio. Note that this conference may start earlier, depending on travel arrangements and the availability of counsel. Those who wish to listen by phone shall notify the Court's MDL Clerk, Corey McCardle (corey_mccardle@ohnd.uscourts.gov) by June 3, 2024. The Court **ORDERS** the parties to submit an agenda for the conference by May 31, 2024.

SO ORDERED.

Dated: April 17, 2024

A handwritten signature in black ink, appearing to read "J. Calabrese", with a long horizontal flourish extending to the right.

J. Philip Calabrese
United States District Judge
Northern District of Ohio